

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1208

Introduced by Assembly Member Logue

February 27, 2009

An act to add Section 2912.5 to the Penal Code, relating to alien inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, as amended, Logue. Illegal alien inmates.

Existing law requires the Board of Parole Hearings to encourage eligible foreign born inmates to apply for return to ~~his or her nation~~ *their nations* of citizenship as provided in federal treaties.

This bill would provide that, except as otherwise provided by law, if a nonviolent, illegal alien inmate agrees to waive his or her right to appeal his or her conviction and agrees not to contest a final order of removal, the inmate may qualify for immediate deportation, provided however, that any waiver expressly provides that the inmate agrees to be subject to the jurisdiction of the Department of Corrections and Rehabilitation and that, if the inmate returns to California without authorization, the inmate shall be subject to incarceration for the remainder of any sentence previously imposed. *An inmate agreeing to the waiver would also be required to promise not to enter the state illegally. Violation of this promise would be punishable by imprisonment in the state prison for 10 years.*

By creating a new crime, this bill would impose a state-mandated local program.

The bill would also express the intent of the Legislature that the Department of Corrections and Rehabilitation enter into a cooperative

agreement with federal Immigration and Customs Enforcement (ICE) to create the ~~California-ICE~~ *California-ICE* Partnership for Rapid REPAT, where “REPAT” is the Rapid Removal of Eligible Parolees Accepted for Transfer. The bill would express the further intent of the Legislature that the department work with ICE to obtain inmate citizenship records, identify illegal aliens in the prison system, and expedite deportation of all illegal alien inmates convicted of nonviolent offenses.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that the
2 Department of Corrections and Rehabilitation enter into a
3 cooperative agreement with federal Immigration and Customs
4 Enforcement (ICE) to create the ~~California-ICE~~ *California-ICE*
5 Partnership for Rapid REPAT, where “REPAT” is the Rapid
6 Removal of Eligible Parolees Accepted for Transfer. It is also the
7 intent of the Legislature that the department work with ICE to
8 obtain inmate citizenship records, identify illegal aliens in the
9 prison system, and expedite deportation of all illegal alien inmates
10 convicted of nonviolent offenses.

11 SEC. 2. Section 2912.5 is added to the Penal Code, to read:

12 2912.5. (a) Except as otherwise provided by law, if a
13 nonviolent, illegal alien inmate agrees to waive his or her right to
14 appeal his or her conviction and agrees not to contest a final order
15 of removal, the inmate may qualify for immediate deportation,
16 provided however, that any waiver expressly provides that the
17 inmate agrees to be subject to the jurisdiction of the Department
18 of Corrections and Rehabilitation and that if the inmate returns to
19 California without authorization, the inmate shall be subject to
20 incarceration for the remainder of any sentence previously imposed.

1 **(b)** *Every inmate agreeing to the waiver provided in subdivision*
2 *(a) shall also sign a written statement promising not to enter the*
3 *state illegally. Entering the state in violation of this promise is a*
4 *felony punishable by imprisonment in the state prison for 10 years.*

5 **SEC. 2.** *No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*